

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1121

By: Monks

AS INTRODUCED

An Act relating to labor; amending 40 O.S. 1991, Sections 52 and 54, which relate to private employment agencies; modifying the definition of temporary employee; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 40 O.S. 1991, Section 52, is amended to read as follows:

Section 52. For the purpose of and when used in this act:

(a) The "Administrator" of this act shall be the Commissioner of Labor.

(b) "Director" shall mean the Deputy appointed by the Administrator to supervise administration of this act.

(c) "Employee", as used in this act, shall mean any person performing or applying for work or service of any kind or character for hire.

(d) "Employer" shall mean any person employing or seeking to employ any person for hire.

(e) "Fees" shall mean anything of value, including any money or other valuable consideration exacted, charged, collected or received directly or indirectly, or paid or promised to be paid for any services or act described or enumerated in subsection (g) of this section.

(f) "Employment" shall mean the act of employing or state of being employed, engaged, or hired.

(g) "Private employment agency" shall mean any business operated in this state by any person, firm or corporation for profit which secures employment or by any form of advertising holds itself out to applicants as able to secure employment or to provide information or service of any kind purporting to promote, lead to or result in employment for the applicant with any employer other than itself, where any applicant may become liable for the payment of a fee to the private employment agency, either directly or indirectly.

"Private employment agency" does not include:

- (1) Any educational, religious, charitable, fraternal or benevolent organization which charges no fee for services rendered in securing employment or providing information about employment; or
- (2) Any employment service operated by this state, the Government of the United States, or any city, county, or town, or any agency thereof; or
- (3) Any temporary help service that at no time advertises or represents that its employee, with the approval of the temporary help service, may be employed by one of its client companies on a permanent basis; or
- (4) Any newspaper of general circulation or other business engaged primarily in communicating information that does not purport to adapt the information provided to the needs or desires of an individual subscriber; or

- (5) Employment offices that charge no fee to the applicant other than union dues or to the employer and which are used solely for the hiring of employees under a valid union contract by the employer subscribing to this contract; or
- (6) Any organization that charges fees only for services other than securing employment, provided that such services are performed pursuant to a contract which includes a statement, in a type size no smaller than ten point, directly above the place for the signature of the client that reads as follows: "I have read and received a copy of this contract which I understand makes me legally obligated to pay a fee, I further understand that this contract does not guarantee employment"; or
- (7) Resume services whose service includes only the preparation and production of resumes, and does not purport to offer services that will result in employment; or
- (8) A person employing individuals to render part-time or temporary personal services to, for, or under the direction of a third person, if the person employing the individuals, in addition to wages or salaries, pays federal social security taxes, state and federal unemployment insurance, carries workers' compensation insurance as required by state law, and has responsibility for the acts of his employees while rendering services to or under the direction of a third person.

(h) "Temporary employment" shall mean any period of employment terminating at any time within ~~sixty (60)~~ thirty (30) days from date of employment.

(i) "Permanent employment" shall mean all employment exceeding sixty (60) days duration.

(j) "Person" shall mean any individual, copartnership, corporation, or other legal entity.

SECTION 2. AMENDATORY 40 O.S. 1991, Section 54, is amended to read as follows:

Section 54. (a) The service fee charged for helping to secure permanent employment shall be not to exceed the following schedule: Fifteen percent (15%) of the first full month's gross compensation if the position pays Seventy-nine Dollars and ninety-nine cents (\$79.99) or less; twenty percent (20%) of the first full month's gross compensation if the position pays Eighty Dollars (\$80.00) through One Hundred Nineteen Dollars and ninety-nine cents (\$119.99); thirty percent (30%) of the first full month's gross compensation if the position pays One Hundred Twenty Dollars (\$120.00) through One Hundred Forty-nine Dollars and ninety-nine cents (\$149.99); forty percent (40%) of the first full month's gross compensation if the position pays One Hundred Fifty Dollars (\$150.00) through Two Hundred Seventy-four Dollars and ninety-nine cents (\$274.99); forty-five percent (45%) of the first full month's gross compensation if the position pays Two Hundred Seventy-five Dollars (\$275.00) through Four Hundred Ninety-nine Dollars and ninety-nine cents (\$499.99). For procuring employment paying gross compensation of Five Hundred Dollars (\$500.00) or more per month, the fee shall be determined by written agreement between all parties concerned. The fee schedule shall be posted in a conspicuous place in each employment agency office.

(b) In no event shall the fee for temporary employment exceed that for permanent placement. Any period of employment terminating at any time within ~~sixty (60)~~ thirty (30) days from the date of employment shall constitute temporary employment and a fee of not more than twenty percent (20%) of the amount earned shall be

charged. All employment exceeding ~~sixty (60)~~ thirty (30) days' duration shall be considered a permanent placement. No licensed employment agency shall collect a fee before an applicant has obtained employment. No fee shall be charged for registering with an employment agency or for instituting a search or investigation, or for other employment-related aids. Where the remuneration is in the form of a straight commission, the first three (3) months' gross earnings shall be divided by three to establish an average monthly compensation against which to compute the fee. No finance company or other purchaser of employment contracts shall be considered a holder in due course of such paper until after the temporary employment period shall have run and permanent employment shall have been established, and in no event shall the applicant for employment be liable for any charge to a finance company in addition to the legal placement fee as hereinabove set forth.

(c) This section shall not apply to an employment agency acting as a search consultant that is retained and compensated solely by the employer on a retainer or consulting basis.

SECTION 3. This act shall become effective July 1, 1993.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-1-5439

MCD